

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-29356-2017
Date of decision :07.11.2017**

Jagjit Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. G.B.S. Dhillon, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

This petition for pre-arrest bail has been filed by petitioner – Jagjit Singh an accused in FIR No.119 dated 08.06.2017 under Sections 406, 420 IPC, registered at Police Station City Kharar, District SAS Nagar, Mohali.

Briefly stated facts of the case as per prosecution story are that FIR in this case was recorded on the basis of written complaint submitted by complainant – Kamaljit Kaur daughter of Joginder Singh resident of H. No.336, Sector 41-A, Chandigarh addressed to the Inspector General of Police, Patiala. Inter alia in the complaint, she had submitted that Jagjit

Singh – petitioner had entered into an agreement to sell his vacant land situated within red line of Mundi Kharar for a sum of ₹41 lacs on 11.10.2010 receiving a sum of ₹7½ lacs as earnest money the remaining amount was to be paid at the time of registration of sale deed the final date for which was fixed as 30.12.2010. However as Jagjit Singh pleaded that he was in need of money, the complainant had paid another sum of ₹10 lacs to him on 25.12.2010 and ₹8 lacs on 08.02.2011. Jagjit Singh had executed receipts in that regard. He received a further sum of ₹50,000/- on 07.06.2013, but complainant did not insist for issuance of receipt in good faith; that she paid another sum of ₹5 lacs to him on 11.12.2013 against receipt, all the time Jagjit Singh was assuring the complainant that he would execute the sale deed in the near future as he was not keeping well, but as a matter of fact he did not execute the sale deed and kept on putting off the matter on one pretext or the other. Thereafter the complainant came to know that Jagjit Singh had executed a sale deed in favour of Mr. Radhe Soni and Smt. Shimla Soni of Panchkula, to which he had no right and intention of Jagjit Singh was dishonest since the date of execution of the agreement to sell in favour of the complainant he had dishonestly induced the complainant to pay him huge amount without meaning to execute the sale deed in her favour thereby cheating her.

On registration of the FIR and apprehending his arrest in the case, the petitioner had approached the Court of Sessions but his such petition was dismissed by Additional Sessions Judge, Mohali vide order dated 28.07.2017, therefore, he has knocked at the door of this Court seeking similar relief.

Notice of the petition was given to the State.

I have heard learned counsel for the parties, besides, going through the record.

In the instant case, interim bail was granted to the petitioner directing him to join the investigation but as stated by State counsel that though the petitioner has joined the investigation but has not rendered cooperation therein and has not got the recovery effected.

Learned counsel for the petitioner has contended that from the allegations in the FIR no criminal offence is disclosed; that there is delay of more than six years in lodging the FIR; that the sale deed could not be executed since the complainant was not having sufficient money and she has not filed any suit for specific performance till date.

On the other hand State counsel has vehemently contested these contentions contending that custodial interrogation of the petitioner is necessary for complete and effective investigation.

After hearing the rival contentions I find that the petitioner is not entitled to relief of pre-arrest bail. As regards the contentions put forward by learned counsel for the petitioner, keeping in view the allegations in the FIR it cannot be said that the dispute is purely of civil nature and no offence of cheating is made out, rather ingredients of cheating prima facie are shown to be there. The delay in lodging of the FIR cannot be given much weightage while considering request of the petitioner for grant of pre-arrest bail, although that factor may be relevant during the trial. Factum of complainant not filing suit for specific performance does not dilute the guilt of the petitioner in any manner. The petitioner receiving a sum of more than ₹30 lacs from the complainant under agreement to sell dated 11.10.2010, but then selling off that property to some other person,

his such act and conduct falls within four corners of a criminal offence. The petitioner having not got the recovery effected during the period he was granted interim bail disentitles him to grant of pre-arrest bail, his custodial interrogation is found to be necessary for complete and effective investigation. If the same is denied to the investigating agency that would leave several gaps and loopholes in the investigation, adversely affecting case of prosecution, which is uncalled for. Finding no merit in the petition, the same stands dismissed.

07.11.2017
Gaurav Sorot

(H.S. MADAN)
JUDGE

1. Whether reportable? **Yes**
2. Whether speaking / reasoned? **Yes**